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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,157	09/25/2003	Xiao Hui Yang	161PA0203	7037
26882	7590	07/01/2005	EXAMINER	
ROBERT R. WATERS, ESQ. WATERS LAW OFFICE, PLLC 633 SEVENTH STREET HUNTINGTON, WV 25701			PREVIL, DANIEL	
			ART UNIT	PAPER NUMBER
			2636	

DATE MAILED: 07/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/671,157

Applicant(s)

YANG ET AL.

Examiner

Daniel Previl

Art Unit

2636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 18 and 19 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22 is/are allowed.
- 6) ☒ Claim(s) 1, 13, 15-17, 20 and 21 is/are rejected.
- 7) ☒ Claim(s) 2-12 and 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 09/25/2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claims 1-22 are presented for examination. However, claims 18-19 are withdrawn from consideration because claim 18 depends on itself and claim 19 depends on claim 18.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the tack head, tack shaft, openings, probe, sensor, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show electronic sensing mechanism 20, opening 26, insertion hole 26, three ball bearings 19, as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Objections

4. Claims 18-19 objected to under 37 CFR 1.75(c) as being in improper form because claim 18 depends on itself. See MPEP § 608.01(n). Accordingly, the claims 18-19 not been further treated on the merits.

5. Claims 3-12, 14 are objected to because of the following informalities: Claim 3, the phrase "may" in line 4 is not a positive limitation but only require the ability to so perform. Appropriate correction is required.

Claims 4-12, 14 are objected for the same reason since they depend from an objected claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 13, 15-17, 20-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Nguyen et al. (US 5,426,419).

Regarding claim 1, Nguyen discloses an electronic article surveillance tag (abstract) comprising a tag housing 1 (fig. 1; col. 4, lines 48-54); a tack 4 consisting of a tack head and a tack shaft wherein tack shaft is inserted through a portion of the article to be protected and into a first opening in tag housing (fig.

1-fig. 2; col. 5, lines 18-45); a releasable ball bearing clutching means within tag housing for retaining a portion of tack shaft within tag body (fig. 1; col. 5, lines 28-32); a second opening in tag housing for insertion of a probe which operates to release ball bearing clutching means (fig. 1; col. 5, lines 56-63; col. 6, lines 14-22); and a sensor means contained within housing (col. 9, lines 44-50).

Regarding claim 13, Nguyen discloses tag housing is constructed of two pieces of hard plastic (col. 4, lines 59-62).

Regarding claim 15, Nguyen discloses tack shaft features regions of varied diameter in order to assist clutching means in maintaining a tight grip on shaft during retention of shaft in housing (fig. 1).

Regarding claim 16, Nguyen discloses shaft features one or more regions wherein shaft is flattened (fig. 1).

Regarding claim 17, Nguyen discloses an electronic article surveillance tag (abstract) comprising a tag housing 1 (fig. 1; col. 4, lines 48-54); a tack 4 consisting of a tack head and a tack shaft wherein tack shaft is inserted through a portion of the article to be protected and into a first opening in tag housing (fig. 1-fig. 2; col. 5, lines 18-45); a releasable ball bearing clutching means within tag housing for retaining a portion of tack shaft within tag body (fig. 1; col. 5, lines 28-32); a second opening in tag housing for insertion of a probe which operates to release ball bearing clutching means (fig. 1; col. 5, lines 56-63; col. 6, lines 14-22); a biasing means for effecting the operation of releasable ball bearing

clutching means (fig. 1; col. 5, lines 28-32) and a sensor means contained within housing (col. 9, lines 44-50).

Regarding claim 20, Nguyen discloses an electronic article surveillance tag (abstract) comprising a tag housing 1 (fig. 1; col. 4, lines 48-54); a tack 4 consisting of a tack head and a tack shaft wherein tack shaft is inserted through a portion of the article to be protected and into a first opening in tag housing (fig. 1-fig. 2; col. 5, lines 18-45); a releasable ball bearing clutching means within tag housing for retaining a portion of tack shaft within tag body (fig. 1; col. 5, lines 28-32); a second opening in tag housing for insertion of a probe which operates to release ball bearing clutching means (fig. 1; col. 5, lines 56-63; col. 6, lines 14-22); a biasing means for effecting the operation of releasable ball bearing clutching means (fig. 1; col. 5, lines 28-32) and a sensor means contained within housing (col. 9, lines 44-50).

Regarding claim 21, Nguyen discloses the release of tack shaft from tag accomplished by compressing biasing means by insertion of a probe into second opening in housing (fig. 6A).

Allowable Subject Matter

8. Claim 22 is allowed.

9. Claims 2-12, 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. The following is a statement of reasons for the indication of allowable subject matter: In combination with all the limitations in the claim, the prior arts fail to teach or make obvious: ball bearing clutching means comprises a set of three ball bearings retained within a spindle which generally retains the balls in a spaced relationship to each other, spindle incorporating a central aperture which is oriented directly beneath first opening in tag housing such that tack shaft is inserted through the central aperture of spindle.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Okuno (US 6,474,117) discloses an antitheft device.

Hogan (US 6,052,876) discloses a versatile attachment mechanism for theft deterrent tags.

Spagna (US 6,896,133) discloses an anti-theft compact disc/dvd storage case.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Previl whose telephone number is (571) 272-

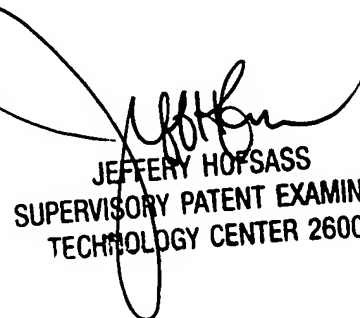
2971. The examiner can normally be reached on Monday-Thursday. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass can be reached on (571) 272-2981. The fax phone number for the organization where this application or proceeding is assigned is (571) 273 8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daniel Previl
Examiner
Art Unit 2636

DP
June 20, 2005.



JEFFERY HOFSSASS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600